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January 12, 2023

By Facsimile (585) 613-4095 and ECF

Hon. Frank P. Geraci, Jr.
United States District Judge
United States District Courthouse
100 State Street
Rochester, NY 14614

Re: Hushla v. City of Rochester
Case No. 22-cv-6039-FPG

Dear Judge Geraci:

We write in response to the letter hand-delivered to the Court by Rochester's Corporation Counsel, Linda Kingsley, and not filed on the docket. It had the name and docket number listed above but has *nothing* to do with this case. If it were a request for a disciplinary proceeding under Local Rule 83.3, it would require filing with Chief Judge Walford. And if it was about the *Hushla* case, it would have been appropriate to copy me, as Plaintiff's lead counsel. Additionally, a communication like this to a judge should be public record, so we have file it by ECF.

Nathan McMurray served many years as the Supervisor of Grand Island, and three times ran for Congress. He is a public figure in addition to being an attorney. What he says on Twitter, whether it is true or false, angry, or righteous, is not the business of this Court, unless it involves the Court.

The *Hushla* case involves an alleged inappropriate use of force by law enforcement against demonstrators, followed by someone in law enforcement shooting a tear gas grenade into Plaintiff's face even though she was many blocks away from the demonstrators. Her nose was practically ripped off and she has suffered permanent brain injuries. Photos of her bloodied face were all over the media.

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I have reviewed the photos —**hanging in a police substation**—and see one of a demonstrator being dragged by two police officers, one of a clearly suffering protestor on his hands and knees, one of a car overturned and burning, and one of police standing in front of a burning store. Why these photos were hanging in a public area of a police station is anyone's guess, but Attorney McMurray, who our firm employs, is entitled to publicly comment about them. There is nothing inappropriate or unethical about a lawyer being critical of the police. I attach a press release from our State Attorney General where she uses a headline calling out the "Use of Brutal Force By NYPD Against Protestors."

What is wholly inappropriate is the Corporation Counsel of Rochester seeking to admonish an attorney because he exercised his right of free speech. To state that what Attorney McMurray did "endangered police officers and citizens" borders on the absurd. What is more disturbing to me is that Rochester's chief counsel, a public official, seeks to involve the Court in a clearly inappropriate effort to stifle Attorney McMurray's First Amendment rights. It is true that in recent day my associate has become a crusader against improper behavior by the Rochester Police Department, but that isn't an excuse to chill his right to comment about the RPD on Twitter. The City of Rochester didn't just pay out \$12 million in the Prude killing because it was a model of proper police tactics.

We request that the Court, despite the esteemed position of the requestor, deny the inappropriate request for a conference to discuss Attorney McMurray's Tweets. And if the Court feels obliged, because of who Linda Kingsley is, to grant the request, the need for an in-person meeting, when lead counsel is in New York City, should not be even considered.

Respectfully submitted,



Arthur Z. Schwartz

cc. Linda B. Kinsley, Esq. By fax- 585-428-7741
Nathan McMurray, Esq – by email